

## Update: Sexual Assault Benchbook

### CHAPTER 4

#### Defenses To Sexual Assault Crimes

##### 4.5 Alibi

###### G. Sanction of Exclusion For Failure to File Required Notice

Insert the following text after the “Note” on page 215, immediately before subsection (H):

A trial court properly excluded testimony from a defense witness who would have testified that the defendant was not present at the time a codefendant expressed his intention to rob the victims. *People v Bell*, \_\_\_ Mich App \_\_\_, \_\_\_ (2003). Exclusion of the witness’ testimony was proper because the defendant failed to satisfy the requirements of the alibi notice statute. \_\_\_ Mich App at \_\_\_. The defendant argued that the notice provision in the statute was inapplicable because the proposed witness was not an alibi witness since the witness’ testimony did not concern the defendant’s whereabouts at the time the armed robbery was committed. \_\_\_ Mich App at \_\_\_. The Court of Appeals affirmed the trial court’s ruling that the defense witness was indeed an alibi witness whose testimony was intended to provide the defendant with an alibi for the charge of *conspiracy* to commit armed robbery. \_\_\_ Mich App at \_\_\_.